

Application No. 10/802,891  
Amendment Filed August 15, 2007  
Reply to Office Action of June 13, 2007

Docket No.: NY-HUBR 1067-DIV-US4

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**REMARKS**

**AUG 15 2007**

Entry of the foregoing amendment is requested. Support for the recitation of "early" is found in the specification at, for example, Example 5, pages 20-21 of the specification, which presents evidence supporting the claimed invention.

The Office Action indicates that claims 27-30 are allowed. This is believed to be an error.

Applicants have studied the rejection of claims 27 and 28 under 35 U.S.C. § 112, and do not understand it.

The claims recite a contacting step ("incubating") followed by "determining." This is what claims 29 and 30 recite, and these claims have not been rejected under 35 U.S.C. § 112, and never have been. The Examiner is not clear as to what she believes is lacking in the claims. Applicants simply do not know how to proceed.

Applicants wish to note that they sought to discuss this point with the Examiner on August 14, 2007, in an effort to expedite prosecution, but were rebuffed in that attempt. The Examiner instructed applicants to put their arguments in writing.

If applicants cannot understand the rejection, how can they respond to it? They have done what, in their view, is the best they can, given the operative facts, and the denial of the interview. As such the Examiner should either withdraw the rejection or clarify the rejection in a follow up Office Action.

With respect to the prior art rejection, the Examiner's position appear to be Vallari teaches HCV seroconversion (page 4 of the final rejection). The Examiner opines further that the Takei reference teaches that reducing agents, added to HCV measurement

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systems, improve their sensitivity, and thus one would be motivated to modify Vallari with Takei to create an improved, seroconversion assay, as claimed by applicants.

Applicants point out antibodies characteristic of early seroconversion differs significantly from those associated with more advanced infectious states. The specification shows this rather clearly, Example 5 in particular.

Vallari and Takei make no mention or suggestion of early seroconversion. If neither reference does so, then the combination cannot remedy the defects in each of them. As such, the rejection cannot be maintained, and should be withdrawn.


Allowance of this application is now believed proper, and is urged.

\* \* \*

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0624, under Order No. NY-HUBR 1067-DIV-US4 (10403549) from which the undersigned is authorized to draw.

Dated: August 15, 2007

Respectfully submitted,

By 

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